

State of Rhode Island and Providence Plantations

Department of Environmental Management



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Rules and Regulations Governing the Administration and Enforcement of the Rhode Island Mercury Education and Reduction Act

November 2002

Authority: These rules and regulations are promulgated pursuant to the Mercury Education and Reduction Act of 2001, R.I. General Law Chapter 23-24.9 (1956) and the Department of Environmental Management, R.I. General Laws Chapter 42-17.1 (1956), in accordance with § 42-35, and the Administrative Procedures of the R. I. General Laws of 1956, as amended.

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1. Purpose

In accordance with the Mercury Education and Reduction Act of 2001, R.I. General Laws Chapter 23-24.9 (1956), the purpose of these regulations is to achieve significant reductions in environmental mercury by encouraging the establishment of effective waste reduction, recycling, management and education programs.

2. Authority

These rules and regulations are promulgated pursuant to the Mercury Education and Reduction Act of 2001, [R.I. General Law Chapter 23-24.9 \(1956\)](#) and the Department of Environmental Management, [R.I. General Laws Chapter 42-17.1\(1956\)](#), in accordance with [§ 42-35](#), and the Administrative Procedures of the R. I. General Laws of 1956, as amended.

3. Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

4. Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

- 4.1 “**Authorized senior management official**” means a corporate official or the individual responsible for the overall operation of a facility (*or designated authorized agent of the facility*) or an operational unit of a facility, such as a plant manager, superintendent, manager of environmental programs, or person of equivalent responsibility.
- 4.2 “**Component**” means a mercury-added product that is incorporated into another product to form a fabricated mercury-added product, including, but not limited to, electrical switches and lamps.
- 4.3 “**Component manufacturer**” means any person who produces a mercury-added product that is incorporated into another product, including but not limited to electrical switches, relays, and lamps.
- 4.4 “**Department**” means the Rhode Island Department of Environmental Management.
- 4.5 “**Director**” means the Director of the Rhode Island Department of Environmental Management or his or her designee.
- 4.6 “**Elemental mercury**” means a heavy, silvery-white metal that is liquid at room temperature and is represented by the chemical symbol “Hg” with an atomic number of 80 and an atomic mass of 200.59.

- 4.7 "***Fabricated mercury-added product***" means a product that consists of a combination of individual components that combine to make a single unit, including, but not limited to, mercury-added measuring devices, lamps and switches to which mercury or a mercury compound is intentionally added in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason.
- 4.8 "***Fluorescent lamp***" means a low-pressure mercury electric-discharge lamp in which a fluorescing coating (phosphor) transforms some of the ultraviolet energy generated by the discharge into light.
- 4.9 "***Formulated mercury-added product***" means a product that includes, but is not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals and coating materials that are sold as a consistent mixture of chemicals to which mercury or a mercury compound is intentionally added in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason.
- 4.10 "***Healthcare facility***" means any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office or health maintenance organization.
- 4.11 "***Interstate Mercury Education and Reduction Clearinghouse (IMERC)***" is a program established under the auspices of the Northeast Waste Management Officials' Association (NEWMOA). It was established to facilitate tasks and serve as a single point of contact for the manufacturers, distributors, or importers of mercury-added products to facilitate compliance with state requirements for these products.
- 4.12 "***Manufacturer***" means manufacturer as defined in [R.I. General Laws Chapter 23-24.9](#), namely any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the manufacturer is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the manufacturer is the importer or domestic distributor.
- 4.13 "***Mercury-added button cell battery***" means a button cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.
- 4.14 "***Mercury-added novelty***" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as figurines, adornments, toys, games,

cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel (including footwear), or similar products.

- 4.15 “**Mercury-added product**” means a product, commodity, chemical or a product with a component that contains mercury or a mercury compound intentionally added to the product, commodity, chemical or component in order to provide a specific characteristic, appearance, or quality, or to perform a specific function or for any other reason. These products include formulated mercury-added products and fabricated mercury-added products.
- 4.16 “**Mercury compound**” means a substance composed of elemental mercury and one or more other chemical elements in fixed proportions.
- 4.17 “**Mercury fever thermometer**” means a mercury-added product that is used for measuring body temperature.
- 4.18 “**Offer for sale or use**” means any presentation for acceptance or rejection made by any means, including those that are electronically conveyed.
- 4.19 “**Person**” means any individual, group of individuals, firm, joint stock company, association, partnership, private or municipal corporation, government or quasi-governmental corporation, state, commission, political subdivision of the state, any interstate body, or the federal government or any agency or subdivision thereof.
- 4.20 “**Prescription**” means a verbal or written order for drugs, medicines and devices by a licensed practitioner, to be compounded and dispensed by licensed pharmacists in a duly registered pharmacy, and to be kept on file for a period of four (4) years. Prescriptions may also apply to the finished products dispensed by the licensed pharmacists in the registered pharmacy, on order of a licensed practitioner.
- 4.21 “**Product category**” means a group of mercury-added products that have the same purpose for having the mercury in each unit, the same consumer or commercial use, and an amount of mercury per unit for all products that fall within the category.
- 4.22 “**Provider of elemental mercury**” means any person that offers elemental mercury for sale or use or otherwise distributes elemental mercury.
- 4.23 “**Recipient of elemental mercury**” means any person who purchases or otherwise receives elemental mercury.
- 4.24 “**School**” means any public or private kindergarten, elementary, secondary, or secondary vocation-technical school or Head Start facility or other institution for the teaching of children in Rhode Island.

5. Notification

Notification Requirements In Accordance with [§23-24.9-5](#)

5.1 Initial Notification

- 5.1.1 The notification for a mercury-added product(s) required [by R.I. General Laws § 23-24.9-5](#), shall include, at a minimum, the following information for the manufacturer of the product(s):
 - 5.1.1.1 The manufacturer's full legal name and mailing address;
 - 5.1.1.2 The name, address, and telephone number of a contact person for the manufacturer;
 - 5.1.1.3 If the manufacturer corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or manufacturer's web address, as applicable; and
- 5.1.2 If the notification for a mercury-added product(s) is submitted by a company or organization other than the manufacturer of the mercury-added product, the notification shall include the following information:
 - 5.1.2.1 The company or organization's full legal name and mailing address;
 - 5.1.2.2 The name, address, and telephone number of a contact person for the company or organization; and
 - 5.1.2.3 If the company or organization corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or organization's web address, as applicable.
- 5.1.3 The notification for a mercury-added product(s), shall include the following information on the mercury-added product(s):
 - 5.1.3.1 A description of the product or product category;
 - 5.1.3.2 The amount of mercury in each unit of the product, reported in milligrams (mg) or parts-per-million (ppm) either as an exact number, as an average per unit with an upper and lower limit, or as falling within one (1) of the ranges specified in Section 5.1.4 of these regulations;

- 5.1.3.3 The purpose of mercury in each unit of the product;
- 5.1.3.4 If the mercury-added product or product category contains one (1) or more mercury-added components in the product, the information required under Section 5.1.3.1 through 5.1.3.3 above shall be provided for each mercury-added component contained in the product; and
- 5.1.3.5 If the mercury-added product or product category contains one (1) or more mercury-added components in the product, the notification shall indicate how many units of each component are contained in each unit of the product.
- 5.1.4 The manufacturer shall use the following ranges when reporting mercury content of mercury-added products by range and for classifying products according to the mercury content in each unit of the mercury-added product:
 - 5.1.4.1 Greater than 0 but less than or equal to 5 milligrams (mg);
 - 5.1.4.2 Greater than 5 mg but less than or equal to 10 mg;
 - 5.1.4.3 Greater than 10 mg but less than or equal to 50 mg;
 - 5.1.4.4 Greater than 50 mg but less than or equal to 100 mg;
 - 5.1.4.5 Greater than 100 mg but less than or equal to 1000 mg; or
 - 5.1.4.6 Greater than 1000 mg.
- 5.1.5 If a manufacturer of a mercury-added formulated product elects to use the specified ranges in Section 5.1.4, they shall report the milligrams of mercury per one (1) liter of the mercury-added formulated product.
- 5.1.6 The notification shall provide the name and title of the authorized senior management official signing the notification on behalf of the manufacturer.
- 5.1.7 An authorized senior management official shall:
 - 5.1.7.1 Sign and date the notification form; and
 - 5.1.7.2 Certify by the individual's signature that the information submitted on the form(s) is true and accurate to the best of their knowledge and belief, subject to a penalty for making false statements.

- 5.1.8 The notification information required under Section 5.1 shall be submitted on a form obtained from the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 5.1.9 The notification shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC). If information is submitted to the Department, in accordance with these regulations, it is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).
- 5.1.10 The manufacturer of a product containing a mercury-added button cell battery(ies) shall comply with all the requirements of Section 5.1.1 through Section 5.1.9 above, even if the battery is the only mercury or mercury-added component in their product.

5.2 Updated Notification

- 5.2.1 As required by [R.I. General Laws § 23-24.9-5\(c\)](#), the manufacturer shall update and revise the information in the notification whenever there is a significant change in the information or when requested by the Director.
- 5.2.2 A significant change that triggers the requirement to provide an updated notification shall be deemed to have occurred whenever:
 - 5.2.2.1 Any of the information required under [R.I. General Laws § 23-24.9-5\(a\) through \(d\)](#) changes;
 - 5.2.2.2 The mercury has been eliminated from the product or product category;
 - 5.2.2.3 The manufacturer stops manufacturing the mercury-added product or product category;
 - 5.2.2.4 The mercury-added product or product category is no longer sold in Rhode Island; or
 - 5.2.2.5 It has been 3 years since the previous notification was approved.
- 5.2.3 The updated notification shall include the following:
 - 5.2.3.1 All the information required by [R.I. General Laws § 23-24.9-5](#); and
 - 5.2.3.2 The reason for the update.

- 5.2.4 An authorized senior management official shall:
- 5.2.4.1 Sign and date the updated notification form; and
 - 5.2.4.2 Certify by the individual's signature that the information submitted on the form(s) is true and accurate to the best of their knowledge and belief, subject to a penalty for making false statements.
- 5.2.5 The updated notification shall be submitted on a form obtained from the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 5.2.6 The updated notification shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC). If information is submitted to the Department, in accordance with these regulations, it is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).

5.3 Reporting by Product Category

- 5.3.1 Two or more mercury-added products may be reported as a product category under the following conditions:
- 5.3.1.1 All products included in the product category have the same purpose for having mercury in the product and, if applicable, have the same mercury-added components; and
 - 5.3.1.2 For products with mercury-added or with one mercury-added component, all the products included in the product category contain a total amount of mercury per unit, on average, that falls within one of the ranges defined in Section 5.1.4; or
 - 5.3.1.3 For products with multiple mercury-added components, all like components of the products included in the product category contain a total amount of mercury per unit, on average, that falls within one of the ranges defined in Section 5.1.4.

5.4 Reporting Total Mercury in All Mercury-Added Products

- 5.4.1 A manufacturer of a mercury-added product(s) or the manufacturer's designated industry or trade group shall submit a notification providing information on the total amount of mercury in all products required by [R.I. General Laws § 23-24.9-5](#).
- 5.4.2 The information on the total amount of mercury in all mercury-added products sold in the United States for a calendar year shall be reported by product or product category.

- 5.4.3 If the information on the total amount of mercury contained in all mercury-added products sold in the United States over the last calendar year is to be submitted by an industry or trade group, the manufacturer shall provide the following information in a separate notification:
- 5.4.3.1 The name and address of the designated industry or trade group;
 - 5.4.3.2 The name, address, and telephone number for a contact person for the industry or trade group; and
 - 5.4.3.3 A statement that the information will be provided by an industry or trade group.
- 5.4.4 The notification of the total amount of mercury in all mercury-added products shall include the following information:
- 5.4.4.1 The manufacturer's or industry or trade group's name and address;
 - 5.4.4.2 The name, address, and telephone number of a contact person for the manufacturer or industry or trade group;
 - 5.4.4.3 If the manufacturer or industry or trade group corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or manufacturer's web address, as applicable;
 - 5.4.4.4 If the information on the total amount of mercury contained in all mercury-added products sold in the United States over the last calendar year is submitted by an industry or trade group, the industry or trade group shall specify the manufacturers for whom it is reporting; and
 - 5.4.4.5 The total amount of mercury in all mercury-added products sold in the United States for the previous calendar year.
- 5.4.5 Information on the total amount of mercury contained in all mercury-added products sold in the United States shall be submitted to the Department by April 1st for the previous calendar year.
- 5.4.6 The manufacturer or industry or trade group shall submit information on the total amount of mercury in all mercury-added products sold in the United States for a calendar year every 3 years thereafter.

**Procedure for Notification to Recipient Healthcare Facilities and the Department:
Mercury Content of Mercury-Added Formulated Products In Accordance with § 23-
24.9-11**

5.5 Disclosure for Mercury-Added Formulated Products

- 5.5.1 Pursuant to the authority granted to the Department in [R.I. General Laws § 23-24.9-11](#), manufacturers of formulated mercury-added products offered for sale or use to a healthcare facility (as defined in Section 4.10) in Rhode Island shall provide both the Department and the recipient healthcare facility a certificate of analysis documenting the mercury content of the product, down to a one part per billion level. The certificate of analysis shall report, at a minimum, the result of an analysis performed for mercury on the specific batch or lot of that product offered for sale. The corresponding batch or lot number of the product shall be clearly identified on the product and on the certificate of analysis submitted to the Department and the healthcare facility.
- 5.5.2 No manufacturer shall offer for sale or use any formulated mercury-added product to a healthcare facility as defined in these regulations unless done so in compliance with Section 5.5.1 above.

6. RESTRICTIONS ON MERCURY-ADDED NOVELTIES

- 6.1 **Mercury-Added Novelties:** After January 1, 2003, no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island.
- 6.2 A mercury-added product which meets the definition of a mercury-added novelty in Section 4.14 and meets one or more of the following criteria (6.2.1 through 6.2.3) is a mercury-added novelty and subject to the January 1, 2003 deadline:
- 6.2.1 Mass produced and distributed for promotional or advertisement purposes;
- 6.2.2 Easily or regularly discarded into the waste-stream;
- 6.2.3 Reasonably understood to be a non-essential product.
- Not all criteria (Section 6.2.1 through 6.2.3) need to be met for a mercury-added product to be a mercury-added novelty for the purposes of these regulations.
- 6.3 **Product Specific Determination:** Manufacturers may request that the Department evaluate a specific mercury-added product to determine if it is a mercury-added novelty under these regulations. In evaluating these products, the Department shall consider the criteria in Section 6.2 and may take into consideration whether an alternative non-mercury-added product, similar in function, size and price, exists. The Department is authorized to request any additional written information it deems necessary to make an appropriate determination.

- 6.4 Manufacturers that produce and sell mercury-added novelties shall notify retailers about the provisions of this product ban (Section 6, Restrictions on Mercury-Added Novelties). The notification by manufacturers to retailers of mercury-added novelty items required by [R.I. General Laws § 23-24.9-6](#), shall include the following information:
- 6.4.1 A statement that pursuant to [R.I. General Laws § 23-24.9-6](#), no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island after January 1, 2003;
 - 6.4.2 The specific product(s) from the manufacturer covered under the notification; and
 - 6.4.3 Information on how to properly dispose of the remaining inventory, including at a minimum that any remaining stock of mercury-added novelties must be recycled or disposed as hazardous waste in accordance with regulations promulgated pursuant to [R.I. General Laws § 23-19.1](#) (The Rhode Island Hazardous Waste Management Act).
- 6.5 The restrictions on the sale and distribution of mercury-added novelty items under [R.I. General Laws § 23-24.9-6](#), shall not apply to novelty items containing a mercury-added button cell battery that can be removed and replaced by the consumer if the battery is the only mercury or mercury-added component in the item.

7. PHASE OUTS AND EXEMPTIONS

- 7.1 No mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Rhode Island if the mercury content of the product exceeds:
- 7.1.1 One gram (1000 milligrams) for mercury-added fabricated products or two hundred fifty (250) parts per million (ppm) for mercury-added formulated products, effective July 13, 2003;
 - 7.1.2 One hundred (100) milligrams for mercury-added fabricated products or fifty (50) parts per million (ppm) for mercury-added formulated products, effective July 13, 2005; and
 - 7.1.3 Ten (10) milligrams for mercury-added fabricated products or ten (10) parts per million (ppm) for mercury-added formulated products, effective July 13, 2007.
- 7.2 For a product that contains one (1) or more mercury-added products as a component, Rule 7 is applicable to each component part or parts and not to the entire product.

- 7.3 For a product that contains more than one (1) mercury-added product as a component, the phase-out limits specified in Section 7.1.1 through 7.1.3 apply to each component and not the sum of the mercury in all of the components.
- 7.4 Fluorescent lamps shall be exempt from the requirements of Section 7.1. As of January 1, 2010, the mercury content of fluorescent bulbs shall either not exceed ten (10) milligrams or the manufacturer shall comply with the exemption requirements pursuant to Section 7.6 below.
- 7.5 A mercury-added product shall be exempt from the limits on total mercury content set forth in Section 7.1 if the level of mercury or mercury compounds contained in the product are required in order to comply with federal or state health or safety requirements. In order to claim this exemption, the manufacturer shall notify the Department, in writing, and provide the legal justification for the claim of exemption.
- 7.6 Manufacturers of a mercury-added product or category of products may apply to the Director for an exemption from the limits on total mercury content set forth in Section 7.1. If approved, the time period associated with each manufacturer's exemption shall not exceed two (2) years. The manufacturer, or an organization/company acting directly on behalf of the manufacturer, shall complete and sign a form (see Appendix A) as provided by the Department that provides the following information, including attachments:
- 7.6.1 The manufacturers full legal name and address. If a company or organization other than the manufacturer is applying for the exemption, the completed form shall include the company or organization's full legal name and mailing address.
- 7.6.2 The name, address and telephone number of a contact person for the manufacturer. If a company or organization other than the manufacturer is applying for the exemption, the completed form shall include the name, address and telephone number of a contact person for the company or organization.
- 7.6.3 If the manufacturer corresponds via email or otherwise has a presence on the Internet, the contact person's email address and/or manufacturers web address, as applicable. If a company or organization other than the manufacturer is applying for the exemption, the completed form shall include the contact person's email address and/or organizations web address, as applicable.
- 7.6.4 A copy of the latest approval letter issued by the Interstate Mercury Education and Reduction Clearinghouse (IMERC) upon completion of the

notification requirements set forth in [R.I. General Laws § 23-24.9-5](#) and Rule 5 of these regulations.

- 7.6.5 An explanation of the specific reason(s) for the requested exemption.
- 7.6.6 An explanation of how the manufacturer, either on its own or in conjunction with other parties, plans to collect, transport and process the product at the end of its useful life.
- 7.6.7 Documentation of the readiness of all necessary parties to perform as intended in the planned collection system.
- 7.6.8 An explanation of why the product is beneficial to the environment or protective of public health and safety.
- 7.6.9 An explanation about why there is no technically feasible alternative to the use of mercury in the product.
- 7.6.10 An explanation about whether or not a comparable non-mercury-added product exists and is available at reasonable cost.
- 7.6.11 If applicable, provide documentation that the product or product category has been exempted from phase-out provisions for mercury-added products required in other states in the United States participating in the Interstate Mercury Education and Reduction Clearinghouse (IMERC).
- 7.6.12 A signed and dated statement certifying that the information on the form is true and accurate to the best of the individual's knowledge and belief, subject to a penalty for making false statements.
- 7.6.13 All requests for exemptions shall be made in writing on the form provided (see Appendix A) and submitted to the Department.
- 7.6.14 The Director may request additional information from the manufacturer or company/organization acting on behalf of the manufacturer if necessary to determine whether the product shall be granted an exemption pursuant to [R.I. General Laws § 23-24.9-7](#).
- 7.7 The Director may grant, with modifications or conditions, an exemption for a product or category of products if he or she finds: (i) a system exists for the proper collection, transportation and processing of the mercury-added product, including direct return of a waste product to the manufacturer, an industry or trade group supported collection and recycling system, or other similar private or public sector efforts; and (ii) he or she finds each of the following criteria are met:

- 7.7.1 Use of the product is not detrimental to the environment, or is protective of public health or protective of public safety; and
 - 7.7.2 There is no technically feasible alternative to the use of mercury in the product; and
 - 7.7.3 There is no comparable non-mercury-added product available at reasonable cost.
- 7.8 Prior to issuing an exemption, the Director shall consult with neighboring states and provinces and regional organizations to promote consistency. The Department shall attempt to avoid inconsistencies in the implementation of Rule 7. Upon reapplication by the manufacturer and findings by the Director of continued eligibility under Section 7.7 and of compliance by the manufacturer with the conditions of the Director's original approval, an exemption may be renewed one (1) or more times and each renewal may be for a period of no longer than two (2) years.

8. Labeling of Products (RESERVED)

9. Disposal Ban

- 9.1 After July 13, 2003, no person shall dispose of mercury-added products in a manner other than by recycling or disposal as hazardous waste or Universal Waste. Mercury from mercury-added products may not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with local, state, and federal applicable requirements.
- 9.2 If a formulated mercury-added product is a cosmetic or pharmaceutical product subject to the regulatory requirements relating to mercury of the federal Food and Drug Administration (FDA), then the product is exempt from the requirements of Rule 9.
- 9.3 This Rule shall not apply to:
- 9.3.1 The disposal of a mercury-added button cell battery by any person;
 - 9.3.2 The disposal of mercury-added components as contained in motor vehicles; and
 - 9.3.3 The disposal of lamps and products containing lamps generated from a household.

10. Collection of Mercury-Added Products

10.1 Collection Requirement.

- 10.1.1 On and after January 1, 2003, no person shall offer any mercury-added product for sale or distribute any such product for promotional purposes unless the manufacturer either on its own or in concert with other persons, has adopted a plan, approved by the Department, for a convenient and accessible collection system for such products when the consumer is finished with them. The plans shall be submitted to the Interstate Mercury Education and Reduction Clearinghouse (IMERC), who will forward a recommendation regarding approval/denial to the Department. The Department shall forward its decision of approval/denial to the applicant in writing.
- 10.1.2 If a mercury-added product is a component of another product, the collection system shall provide for removal and collection of the mercury-added component or collection of both the mercury-added component and the product containing it.

10.2 The Collection System.

- 10.2.1 The collection system plan shall include:
 - 10.2.1.1 An education program to inform consumers of mercury-added products about the purpose of the collection program and how to participate in it;
 - 10.2.1.2 A plan which specifically addresses the following issues:
 - 10.2.1.2.1 Location of the mercury-added product and how to remove it;
 - 10.2.1.2.2 The manner in which the items will be collected and stored;
 - 10.2.1.2.3 The frequency and method of disposal/recycling for the items collected;
 - 10.2.1.2.4 The recordkeeping protocol that the manufacturer will maintain to assure compliance with this plan;

- 10.2.1.3 A plan for implementing and financing the collection system;
 - 10.2.1.4 Documentation of the willingness of all parties to the system to implement the proposed collection system;
 - 10.2.1.5 A best estimated, targeted capture rate for the mercury-added product or component;
 - 10.2.1.6 A description of the performance measures to be utilized and reported by the manufacturer to demonstrate that the collection system is meeting capture rate targets;
 - 10.2.1.7 A description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met; and
 - 10.2.1.8 Other special conditions or information related to the affected mercury-added product.
- 10.3 Not later than July 1, 2004, and biennially thereafter, the manufacturer or entity that submitted the plan on behalf of the manufacturer shall submit a report to the Department and the Interstate Mercury Education and Reduction Clearinghouse (IMERC) on the effectiveness of the collection system. The report shall include an estimate of the amount of mercury that was collected, the capture rate for the mercury-added products or components, the results of the other performance measures included in the manufacturer's collection system plan, and such other information as the Department may request. The Department may make such reports available to the public.
- 10.4 The applicant shall identify, in writing, any known impediment that impacts the effectiveness of the collection system and what corrective measures may be appropriate. The Department shall then review the submission and determine if the corrective measures are acceptable and should be implemented.
- 10.5 The following are exempt from the provisions of Rule 10:
- 10.5.1 Mercury-added button cell batteries;
 - 10.5.2 Mercury-added lamps;
 - 10.5.3 Products where the only mercury contained in the product comes from a mercury-added button cell battery or a mercury-added lamp; and
 - 10.5.4 Motor vehicles.

11. Limitations on the Use of Elemental Mercury

- 11.1 After January 1, 2003, a provider of elemental mercury in Rhode Island, including intermediate distributors and distillers, shall distribute elemental mercury to end-users in Rhode Island only for the allowable uses specified under [R.I. General Laws § 23-24.9-12](#) namely for medical, dental, or research purposes.
- 11.2 The provider of the elemental mercury shall provide the recipient of the elemental mercury with the Material Safety Data Sheet (MSDS) for elemental mercury, as defined in 42 U.S.C. Section 11049 with each delivery of elemental mercury.
- 11.3 The purchaser or recipient of elemental mercury shall sign a statement (Appendix B), which includes, in accordance with [R.I. General Laws § 23-24.9-12](#), the following information:
 - 11.3.1 Name and address of the provider of elemental mercury;
 - 11.3.2 Name, address, and telephone number, of a contact person for the provider of elemental mercury;
 - 11.3.3 If the provider corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or provider's web address, as applicable;
 - 11.3.4 Name and address of the recipient of elemental mercury;
 - 11.3.5 Name, address, and telephone number of a contact person for the recipient of elemental mercury;
 - 11.3.6 If the recipient corresponds via e-mail or otherwise has a presence on the Internet, the contact person's e-mail address and/or recipient's web address, as applicable;
 - 11.3.7 Amount of mercury provided to the recipient in that delivery;
 - 11.3.8 Date of the transfer;
 - 11.3.9 A statement indicating that the recipient of the elemental mercury understands and agrees to the following restrictions specified in [R.I. General Laws § 23-24.9-12](#):

- 11.3.9.1 The recipient of the elemental mercury shall use the mercury only for medical, dental amalgam dispose-caps, or research purposes;
- 11.3.9.2 The recipient of the elemental mercury understands that mercury is toxic and shall store and use it appropriately so that no person is exposed to the mercury; and
- 11.3.9.3 The recipient of the elemental mercury shall not place or allow anyone under the purchaser's control to place the mercury or cause the mercury to be placed in solid waste or red bag regulated medical waste for disposal or in a wastewater treatment and disposal system except in accordance with all applicable federal, state and local requirements.
- 11.3.10 The intended allowable use of the mercury by the recipient, namely whether it is to be used for medical, dental, research purposes, or for further distribution for these intended uses; and
- 11.3.11 Name and title of the authorized senior management official for the recipient of the elemental mercury signing the certification statement.
- 11.4 The information required pursuant to Section 11.3 shall be submitted on a form obtained from the Department.
- 11.5 An authorized senior management official for the recipient of the elemental mercury shall:
 - 11.5.1 Sign and date the completed certification statement form; and
 - 11.5.2 Certify by the individual's signature that the information submitted on the form is true and accurate to the best of the individual's knowledge and belief, subject to a penalty for making false statements.
- 11.6 The recipient of elemental mercury shall complete and sign a separate certification statement for each delivery of elemental mercury.
- 11.7 The provider of the elemental mercury shall forward each completed certification statement to the Department.
- 11.8 The provider shall forward completed certification statements to the Department at least monthly, unless no elemental mercury was offered for sale or use during the previous month.

12. Disclosure Provision

Information provided to the Department, in accordance with these regulations, is assumed to be a public record unless exempt under [R.I. General Laws § 38-2-2](#) (R.I. Access to Public Records Act).

13. Enforcement/Penalties

The Director shall assess all penalties for violation of these regulations in accordance with the provisions of [R.I. General Laws Chapter 23-24.9](#) (The 2001 Mercury Education and Reduction Act), [R.I. General Laws Chapter 42-17.1](#) (The Department of Environmental Management), [R.I. General Laws 42-17.6](#) (Administrative Penalties for Environmental Violations) and the "Rules and Regulations for Assessment of Administrative Penalties".

A violation of any of the provisions of [R.I. General Laws 23-24.9](#) or any rule or regulation promulgated pursuant thereto, shall be punishable, in the case of a first violation, by a civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further violations, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.

14. Appeals

Any person affected by a decision of the Director pursuant to these regulations may, in accordance with Administrative Rules of Practice and Procedure for the Department of Environmental Management, file a claim for an adjudicatory hearing to review the decision. The party contesting a Department decision bears the burden of proof that their application(s) or action(s) comply with all requirements of the rules and regulations herein. All requests for a hearing regarding a decision of the Director must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within thirty (30) days of receipt of the Director's decision. All requests for a hearing regarding an enforcement action issued by the Department must be in writing and filed with the clerk of the Department's Administrative Adjudication Division (AAD) within twenty (20) days of receipt of the enforcement action.

15. Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

16. Effective Date

The foregoing Rules and Regulations Governing the Administration and Enforcement of the Mercury Education and Reduction Act, after due notice, are hereby adopted and filed with the Secretary of State this _____ day of _____, 20__ to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 23-24.9, 42-35, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

[Jan H. Reitsma]

Director, RI Department of Environmental Management

Notice Given on:	[Month day, year]
Public Hearing held:	[Month day, year]
Filing Date:	[Month day, year]
Effective Date:	[Month day, year]



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-831-5508

Appendix A- REQUEST FOR EXEMPTION TO PRODUCT PHASE-OUT REQUIREMENTS

I. APPLICANT'S FULL LEGAL NAME AND ADDRESS, ADDRESS, AND CONTACT INFORMATION (PRINT):

Name/Organization: _____ Telephone #: _____
Mailing Address: _____
City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____
Mailing Address: _____
City/Town: _____ State: _____ Zip Code: _____
E-mail Address: _____

II. PRODUCT MANUFACTURERS NAME, ADDRESS, AND CONTACT INFORMATION (IF DIFFERENT FROM ABOVE)

Name _____ Telephone #: _____
Mailing Address: _____
City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____
Mailing Address: _____
City/Town: _____ State: _____ Zip Code: _____
E-mail Address: _____

III. THE FOLLOWING INFORMATION MUST BE ATTACHED IN A BRIEF, NARRATIVE FORM:

1. IMERC notification approval letter,
2. Reason for exemption request,
3. Explanation of how the manufacturer will collect, transport and process the product at the end of its useful life,
4. Documentation of the readiness of all parties to perform as intended in the planned collection system,
5. An explanation of why this product is beneficial to the environment or protective of public health and safety,
6. An explanation about why there is no technically feasible alternative to the use of mercury in this product,
7. An explanation about whether or not a comparable non-mercury- added product exists and is available at a reasonable cost, **OR**
8. Documentation of an approved exemption for this product from another U.S. state participating in IMERC.

IV. CERTIFICATION: **As the applicant for this exemption, I certify that the information that I have provided to support this request is true and accurate to the best of my knowledge and belief and that I am subject to a penalty for making false statements.**

Signature (of an Authorized Senior Management Official or designee)

Date

Print or Type Name and Title of the Authorized Senior Management Official, or designee



RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Appendix B- Certification Statement for the Sale or Distribution of Elemental Mercury

I. APPLICANT'S FULL LEGAL NAME AND ADDRESS, ADDRESS, AND CONTACT INFORMATION (PRINT):

Name/Organization: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

E-mail Address: _____

II. PRODUCT MANUFACTURERS NAME, ADDRESS, AND CONTACT INFORMATION (IF DIFFERENT FROM ABOVE)

Name _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Contact Person: _____ Telephone #: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

E-mail Address: _____

III. AMOUNT OF MERCURY TRANSFERRED (POUNDS): _____

DATE TRANSFERRED: _____

IV. USE OF ELEMENTAL MERCURY (CHECK ALL THAT APPLY):

☐ Medical

☐ Dental Amalgam

☐ Research

☐ Other _____

V. CERTIFICATION: AS THE RECIPIENT OF ELEMENTAL MERCURY, I CERTIFY THAT:

- (1) The elemental mercury is to be used only for medical, dental amalgam dispose-caps, or research purposes;
- (2) I understand that mercury is toxic and must be stored and used appropriately so that no person is exposed to the mercury; and
- (3) I will not place or allow anyone else under my or my organization's control to place the mercury or cause the mercury to be placed in solid waste for disposal or in a wastewater disposal system.

Signature (of an Authorized Senior Management Official for Recipient)

Date

Print or Type Name and Title of the Authorized Senior Management Official

APPENDIX B :A copy of this document should be sent to abovenoted address.
ATTN: OTCA/Mercury Transfer Certification
Recipient should receive a Material Data Safety Sheet (MSDS) with delivery.